

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|---|-------------------------------------|---------------------------|--|------------------------------------|---------------------------------|
| Investigator: Dov Levavi | Team: Team # 2 | CCRB Case #: 201200559 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Sunday, 01/08/2012 8:05 PM | Location of Incident: § 87(2)(b) | Precinct: 75 | 18 Mo. SOL 7/8/2013 | EO SOL 7/8/2013 | |
| Date/Time CV Reported Mon, 01/09/2012 12:00 AM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Thu, 01/12/2012 12:50 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|------------------------|--------|--------|---------|
| 1. LT Joseph Hayward | 00000 | 923936 | PBBN |
| 2. SGT Joseph Federico | 01081 | 930132 | PBBN |
| 3. POM Michael Tomei | 08450 | 949733 | PBBN |
| 4. POM Scott Adelman | 00105 | 948591 | PBBN |
| 5. An officer | | | |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---------------------|-----------|--------|----------|
| 1. POM Faisal Harun | 23950 | 950567 | PBBN |
| 2. POM Scott Just | 12018 | 897760 | 075 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|---|-----------------------------|
| A.LT Joseph Hayward | Abuse: Lt. Joseph Hayward supervised the entry of § 87(2)(b) in Brooklyn. | § 87(2)(b) |
| B. An officer | Abuse: An officer threatened § 87(2)(b) with the use of force. | § 87(2)(b) |
| C.POM Scott Adelman | Force: PO Scott Adelman used physical force against § 87(2)(b) | § 87(2)(b) |
| D.POM Michael Tomei | Force: PO Michael Tomei used physical force against § 87(2)(b) | § 87(2)(b) |
| E.SGT Joseph Federico | Force: Sgt. Joseph Federico used physical force against § 87(2)(b) | § 87(2)(b) |

Case Summary

On January 8, 2012 and January 10, 2012, § 87(2)(b) and § 87(2)(b) called the IAB command center to file complaints (log #12-01668 and 12-02146) that were received by the CCRB on January 12, 2012. At approximately 8:05 p.m. on January 8, 2012, officers responded to a call about an individual with a gun at § 87(2)(b) in Brooklyn. § 87(2)(b) and § 87(2)(b) were arrested. The following allegations resulted:

Results of Investigation

- **Allegation A – Abuse of Authority: Lt. Joseph Hayward supervised the entry and search of § 87(2)(b) in Brooklyn.**
§ 87(2)(g)
- **Allegation B – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.**
§ 87(2)(g)
- **Allegation C – Force: PO Scott Adelman used physical force against § 87(2)(b)**
- **Allegation D – Force: PO Michael Tomei used physical force against § 87(2)(b)**
- **Allegation E – Force: Sgt. Joseph Federico used physical force against § 87(2)(b)**
§ 87(2)(g)

Civilian Statement(s)

Witness: § 87(2)(b)

- *A black female who is 5'1" tall, weighing 100 pounds with brown hair and brown eyes, § 87(2)(b) was § 87(2)(b) old at the time of the incident. § 87(2)(b)*

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on February 1, 2012 (encl. b8-12). § 87(2)(g) On January 8, 2012, at approximately 8:05 p.m., § 87(2)(b) was sleeping in the basement bedroom of her house at § 87(2)(b) in Brooklyn. Also in the basement bedroom was her brother's girlfriend, § 87(2)(b). The basement has a flight of stairs that leads up to the main floor and a door that leads to the outside of the house. § 87(2)(b)'s mother, § 87(2)(b) and brother, § 87(2)(b) were both upstairs, as were her younger sisters, § 87(2)(b) -old § 87(2)(b) § 87(2)(b) year-old § 87(2)(b) and older brother § 87(2)(b). § 87(2)(b) heard banging noises and sounds coming from upstairs. She woke up, looked out the door into the living room part of the basement, and saw about ten to fifteen male officers in uniform with their flashlights. Two officers who entered the house were identified by the investigation as Lt. Joseph Hayward and PO Scott Adelman. § 87(2)(b) stayed in the bedroom and sat on her bed, and after several seconds two officers came into the bedroom from the living room. § 87(2)(b) asked the officers what

was going on. One officer, PO1, said that the officers had received a phone call that there were guns in the house and that they were unable to trace the call. The other, PO2, asked § 87(2)(b) who else was in the room with her and § 87(2)(b). She said nobody was there and told him to look around. PO2 stated that the officers saw someone run into the house with a gun. She told PO2 to look around and that no one was in there. PO1 and PO2 looked in the closet of the bedroom to see if anyone was hiding. The officers in the basement appeared to be looking for a person and not for any items.

After about three minutes, § 87(2)(b) heard § 87(2)(b) telling officers in a normal tone that they could not be in there without a warrant. § 87(2)(b) and § 87(2)(b) had come down stairs and exited the house to check on § 87(2)(b) through the door on the outside of the house from which the basement was visible. Officers had already opened this door. The officers who were in the basement then went out the door to the small gated-in area in front of the house, followed by § 87(2)(b) and § 87(2)(b). In front of the house at this time were about fifteen to eighteen uniformed officers, some of whom were female. None of the female officers were inside the gated area. § 87(2)(b) and § 87(2)(b) were looking down from the top of the stairs. There were about three marked vans and about six marked sedans on the street.

§ 87(2)(b) heard an officer (whom she could not describe) tell § 87(2)(b) that if he did not stay quiet they would take him in. § 87(2)(b) kept speaking to the officers. Officers then approached § 87(2)(b) and he told his mother, § 87(2)(b) to get the officers' badge numbers. A group of officers grabbed for his arms and legs. § 87(2)(b) did not swing at the officers, throw any punches or try to get away from them. He did not use any profanities toward the officers. The impact of the officers as they grabbed § 87(2)(b) caused him to fall and the back of his head to hit against the mailbox. He then fell back-first to the ground and about seven or eight officers held him down. An officer sat on top of § 87(2)(b)'s chest and he said that he could not breathe. § 87(2)(b) yelled at the officers to stop and § 87(2)(b) screamed as she watched from the top of the stairs. An officer (whom she could not describe) told § 87(2)(b) that they would taser him if he did not stop moving, although § 87(2)(b) did not see § 87(2)(b) moving around. § 87(2)(b) did not struggle with the officers when he was on the ground. While § 87(2)(b)'s arms and legs were secure, two officers, PO3 and PO4, kicked him about three or four times in the right side of his chest. PO3 and PO4 were both white males who were over 5'10" tall with short haircuts. (She could not describe them further.) § 87(2)(b) did not try to prevent the officers from handcuffing him. They turned him around and handcuffed his arms behind his back.

When § 87(2)(b) told § 87(2)(b) to get the officers' badge numbers, she took out her cell phone and pointed it at the officers. § 87(2)(b) did not yell at or use profanities toward the officers. Officers at that point approached her and brought her to the ground by grabbing her arms and legs as her phone fell to the ground. After § 87(2)(b) watched the officers kick § 87(2)(b) she looked to where § 87(2)(b) was being held on the ground by about six to eight officers. While § 87(2)(b)'s arms and legs were being held by officers, an officer, whom § 87(2)(b) believed to be PO2, kicked § 87(2)(b) about six times in her abdominal area. § 87(2)(b) did not move around while on the ground. § 87(2)(b) yelled at the officers to stop kicking § 87(2)(b). § 87(2)(b)'s view of her mother's face was blocked at the time.

After § 87(2)(b) said he could not breathe, § 87(2)(b) called an ambulance. Officers hurried to get § 87(2)(b) and § 87(2)(b) out of there before the ambulance arrived.

They were both handcuffed and were picked up about four minutes after being brought to the ground. They were brought to a marked police van.

§ 87(2)(b) went upstairs to check on her younger sisters. There, about nine officers continued to go around the house, kicking doors in and entering the rooms. § 87(2)(b) was in § 87(2)(b)'s room and § 87(2)(b) was in the hallway. § 87(2)(b) asked an officer, PO5 what was going on. PO5 was a black male who was about 6'0" tall with short hair and a muscular build. § 87(2)(b) did not know anything else that PO5 did. PO5 said to § 87(2)(b) "You should know, you live here." Officers finished their search and then left the house. § 87(2)(b) returned downstairs to check on her mother and § 87(2)(b) but they were already gone.

When § 87(2)(b) returned home on January 9, 2012, § 87(2)(b) saw a large bruise to § 87(2)(b)'s chin, bruises to her arms, and bruises to her legs. She did not know how these bruises were sustained. She did not see officers kick § 87(2)(b)'s legs or face. § 87(2)(b) returned home on January 10, 2012. § 87(2)(b) did not notice any injuries to § 87(2)(b) and § 87(2)(b) both went to § 87(2)(b) on § 87(2)(b).

Victim: § 87(2)(b)

Telephone Statement

§ 87(2)(b) provided a telephone statement on January 19, 2012 (encl. b13). § 87(2)(b) was upstairs with § 87(2)(b) when he heard the house's basement door being kicked in, looked out the window and saw police officers in the front yard. He went downstairs to the front stoop of his house and saw officers entering into the basement of the house. While keeping his distance, § 87(2)(b) asked where their warrant was. Officers said they were there based on a telephone call and asked where the guns were. § 87(2)(b) denied that there were any guns. He became angry and yelled at the officers while asking again for the warrant. He yelled at § 87(2)(b) to take the officers' badge numbers. As § 87(2)(b) went to take down the officers' badge numbers, § 87(2)(b) felt his head hit the mailbox and he was brought to the ground. He saw that § 87(2)(b) was also on the ground. § 87(2)(b) could not breathe. He had a bullet in his back from a previous incident and officers were leaning on him. One officer said, "Don't move or I'll tase you." § 87(2)(b) felt kicks against his ribs. Officers picked him up and asked him where the gun was before taking him away from the scene.

Witness: § 87(2)(b)

Telephone Statement

§ 87(2)(b)'s brother, provided a telephone statement on February 29, 2012 (encl. b14). § 87(2)(b) was at § 87(2)(b) in Brooklyn when officers came and entered the basement of the house. Officers arrested § 87(2)(b) outside in front of the house, and when § 87(2)(b) came outside, § 87(2)(b) told her to take a picture of the officers' badges. Officers then threw § 87(2)(b) to the ground and kicked her. There were also a number of officers on top of § 87(2)(b) who complained that he could not breathe because he had a bullet in his back from a previous incident. Officers told § 87(2)(b) to sit on the porch and not to move, and an officer told him, "Shut up before we lock you up."

§ 87(2)(b) went back inside the house and upstairs, where he saw more officers tearing up the house without a search warrant. A white male officer told § 87(2)(b)'s § 87(2)(b)-old sister,

§ 87(2)(b) "Shut up before we lock you up" § 87(2)(b) saw officers in his room, "tearing up" the room, and in § 87(2)(b)'s room. Officers told § 87(2)(b)'s other sister, who was in the bathroom, to open the door. Officers said that someone made a call reporting that an individual ran into the basement with a gun. Officers then stated that they saw someone run into the house with a gun.

An ambulance came, but it left without § 87(2)(b). The next day, § 87(2)(b) was unable to find his cell phone and he found the phone's battery in a puddle of water.

Attempts to Contact Civilians

- Soon after filing the complaint, § 87(2)(b) stated that she did not wish to cooperate with the investigation. § 87(2)(b) missed his scheduled CCRB interview and did not respond to numerous contact attempts. Attempts were also made to contact and interview witnesses § 87(2)(b), § 87(2)(b) and § 87(2)(b). However, none cooperated with the investigation's attempts to contact and interview them.

NYPD Statement(s):

Subject Officer: LT. JOSEPH HAYWARD

- *A white male who is 5'7" tall, weighing 185 pounds with brown hair and brown eyes, Lt. Hayward was § 87(2)(b) old at the time of the incident.*
- *Lt. Hayward worked from 2:45 p.m. to 11:30 p.m. assigned as impact lieutenant for the east zone of 75 precinct with PO Adelman. He was uniformed and assigned to a marked vehicle.*

Memo Book

- 7:35 p.m., Possible crime – man with a gun at § 87(2)(b) 8:05 p.m., Two under arrest in regards – one male perpetrator, § 87(2)(b) one female perpetrator, § 87(2)(b) for § 87(2)(b) (encl. c8-10)

CCRB Statement

Lt. Joseph Hayward was interviewed at the CCRB on April 26, 2012 (encl. c11-13). At approximately 8:05 p.m. on January 8, 2012, Lt. Hayward and PO Adelman responded to a call about an armed male who ran into § 87(2)(b) in Brooklyn. The radio call included a physical description (black male, wearing a hoodie) and the name of the perpetrator (mistakenly listed in the SPRINT report as "§ 87(2)(b)"). Lt. Hayward and PO Adelman were the first to respond and were followed by several other officers. Lt. Hayward did not recall which other officers were at the scene.

The basement entrance door (on the left of the house's front side) was open with no individuals in the area. Lt. Hayward stepped a few feet into the doorway of the dark basement and said, "Hello? Anybody here?" Lt. Hayward could not recall if PO Adelman entered as well, but believed he did. An individual fitting the description from the radio run then came out of the front door (located on the right of the house's front side) and headed toward the basement doorway where the officers were. Lt. Hayward asked, "Are you § 87(2)(b)?" and the individual replied affirmatively. Lt. Hayward could not recall if § 87(2)(b) had anything in his hands. Lt. Hayward has dealt with § 87(2)(b) before and knows him to be a Bloods gang member who sells drugs on the corner about a block from the scene. A year prior to this incident, Lt. Hayward dealt with § 87(2)(b) when § 87(2)(b) was shot. § 87(2)(b) was uncooperative during that investigation and refused to give a description of his shooter. Lt. Hayward also knew

§ 87(2)(b) to have committed a series of robberies in the area and was arrested for having a firearm during those robberies. From these experiences, Lt. Hayward believed that § 87(2)(b) could have a firearm on him. When Lt. Hayward asked § 87(2)(b) if he had a firearm on him, § 87(2)(b) became irate and began to curse and say, “Get the fuck out of here.”

Lt. Hayward instructed officers to frisk § 87(2)(b) who then began to fight with the officers by pushing them off him. Lt. Hayward did not recall which officers were pushed. Lt. Hayward could not recall if § 87(2)(b) was brought to the ground. The officers attempted to handcuff § 87(2)(b) who continued to argue and struggle. § 87(2)(b) did not make contact with any mailbox, wall or other surface. Lt. Hayward did not tell § 87(2)(b) he would taser him if he did not stop moving. Lt. Hayward did not hear any other officer make this statement. Lt. Hayward did not threaten § 87(2)(b) with any force. Lt. Hayward did not kick § 87(2)(b) in the chest or punch or kick any other part of his body. Lt. Hayward did not see any other officer punch or kick § 87(2)(b). Lt. Hayward did not see § 87(2)(b) throw any punches or swing at any officers.

§ 87(2)(b) came running from the front door towards them to prevent § 87(2)(b) from being handcuffed. Lt. Hayward did not recall if § 87(2)(b) had a cell phone or anything else in her hands. § 87(2)(b) pushed officers but Lt. Hayward could not recall if he was pushed. Sgt. Federico handcuffed § 87(2)(b) at Lt. Hayward’s instruction. § 87(2)(b) was handcuffed as she resisted by flailing her arms. She was brought to the ground when she would not let the officers handcuff her. Lt. Hayward did not kick or punch § 87(2)(b) nor see any other officer do so. Lt. Hayward observed the officers handcuffing § 87(2)(b) and § 87(2)(b) but did not participate. The handcuffing took several minutes.

More female individuals began to gather from the residence at the front door. Lt. Hayward instructed an unspecified amount of officers to go into the house to see that no one was injured or shot, as well as to see if a gun was in close proximity. Lt. Hayward also entered the building to make sure everyone was okay. Lt. Hayward said these individuals looked like teenagers and he did not want a loaded gun to remain on the scene. Lt. Hayward did not conduct a search of the house. He saw two female individuals inside the house who said they were fine. This took about 20-30 seconds.

Neither § 87(2)(b) nor § 87(2)(b) reported any injuries at the scene. § 87(2)(b) was not willing to go to the police car and needed to be picked up by the officers and brought to the van against his will. Lt. Hayward did not see any injuries to him or to § 87(2)(b).

Once § 87(2)(b) and § 87(2)(b) were placed into cells at the 75th Precinct stationhouse, Lt. Hayward asked both if they had injuries or needed an ambulance. Both said no. Lt. Hayward did not hear § 87(2)(b) complain of not being able to breathe. Neither § 87(2)(b) nor § 87(2)(b) complained of being hit or punched by officers.

Subject Officer: PO SCOTT ADELMAN

- *A white male who is 5'9", weighing 206 pounds with brown hair and brown eyes, PO Adelman was § 87(2)(b) old at the time of the incident.*
- *PO Adelman worked from 1:30 p.m. to 10:05 p.m. assigned as the lieutenant's operator with Lt. Hayward. He was in uniform and was assigned to a marked vehicle.*

Memo Book

- 7:45 p.m., Possible crime – man with a gun at § 87(2)(b) 8:05 p.m., Two under arrest by PO Harun. (encl. c30-32)

CCRB Statement

PO Scott Adelman was interviewed at the CCRB on May 22, 2012 (encl. c33-35). PO Adelman arrived on scene with Lt. Hayward as other police vehicles pulled up to the location. He did not see any civilians in front of the house. He recalled that PO Tomei and Sgt. Federico were at the scene, and although PO Harun was the eventual arresting officer, PO Adelman did not recall seeing him at the scene. As they were in hot pursuit (based on the information from the radio call), Lt. Hayward and PO Adelman entered the basement door. Lt. Hayward entered first, followed by PO Adelman. He did not recall who, if anyone, entered behind him. It was very dark inside the house, and when they turned on the lights, PO Adelman saw beer bottles and garbage on the floor. Inside a basement bedroom was a female who came out into the hallway when they saw that officers were there. PO Adelman did not enter the bedroom and did not interact with the female. He did not search the house during this entry. Lt. Hayward and PO Adelman saw no one inside the house matching the description they had received, so they turned and proceeded back up the stairs toward the front of the house. As they were coming back out, § 87(2)(b) came outside while yelling, using profanities and waving his hands. He seemed very irate. PO Adelman had never seen § 87(2)(b) before, but he learned later that Lt. Hayward recognized him as the individual in question and that Lt. Hayward knew § 87(2)(b) from previous arrests.

Lt. Hayward ordered PO Adelman and PO Tomei to stop and question § 87(2)(b). PO Adelman asked § 87(2)(b) to place his arms behind his back, but he continued to yell and flail his arms, at which point officers were ordered to place him in handcuffs for their safety. PO Adelman attempted with PO Tomei to handcuff § 87(2)(b)'s hands behind his back. However, § 87(2)(b) flailed and pushed officers away, and he pushed one officer against a wall, so more officers came to assist. PO Adelman did not recall if § 87(2)(b) threw any punches, although he later learned that Sgt. Federico had been kicked in his groin. It took approximately five minutes for PO Adelman, PO Tomei and other officers (whom PO Adelman could not recall) to detain § 87(2)(b). He was brought to the ground, at which point PO Adelman was pushed away from the scene and ceased to interact with § 87(2)(b). PO Adelman did not see § 87(2)(b) hit against anything as he was brought to the ground. PO Adelman did not punch or kick § 87(2)(b) and he saw no officer do so. He did not tell § 87(2)(b) that he would be tasered if he did not stop moving, and he did not hear any officer do so. PO Adelman did not hear § 87(2)(b) complain of injuries or difficulty breathing as he was brought to a police vehicle. He did not notice any injuries to § 87(2)(b).

PO Adelman learned later that § 87(2)(b) had been arrested while he was on scene. However, he witnessed no part of her arrest because at the scene he was focused on detaining

§ 87(2)(b) and then looking for his radio, which had been lost during the struggle. He saw no officer punch or kick § 87(2)(b) at the scene.

After § 87(2)(b) was taken away, Lt. Hayward instructed PO Adelman, Sgt. Federico and PO Tomei to enter the house to make sure no one was shot or injured. PO Adelman did not recall if Lt. Hayward entered the house. PO Adelman entered through the front door of the house and went upstairs. There were individuals in the house slamming doors and yelling, “You’re never going to find it.” PO Adelman and the other officers in the house knocked on closed doors to talk to the individuals inside. They did not conduct a search for a gun at this time, and they left after approximately three to four minutes.

Subject Officer: PO MICHAEL TOMEI

- *A white male who is 5’10” tall, weighing 175 pounds with red hair and blue eyes, PO Tomei was § 87(2)(b) old at the time of the incident.*
- *PO Tomei worked from 1:30 p.m. to 10:05 p.m. assigned to marked vehicle #2029 with Sgt. Federico. He was in uniform.*

Memo Book

- 7:45 p.m., Possible crime – gun run at § 87(2)(b) 7:48 p.m., Arrived at scene; 8:00 p.m., Two under arrest by PO Harun. (encl. c20-21)

CCRB Statement

PO Michael Tomei was interviewed at the CCRB on May 15, 2012 (encl. 22-24). When PO Tomei and Sgt. Federico arrived, PO Adelman and Lt. Hayward were at the basement door. He did not see either of them enter the door. Within a matter of seconds, § 87(2)(b) jumped over the railing of the steps to the right of where the officers were and approached Lt. Hayward and PO Adelman while clenching his fists and assuming a menacing and combative stance. PO Tomei and Sgt. Federico ran toward the scene after PO Adelman grabbed § 87(2)(b) PO Adelman pushed § 87(2)(b) against the front of the house. § 87(2)(b) may have made contact with the mailbox at that point. § 87(2)(b) fell on top of an officer with his back facing down. An unknown officer’s radio caught onto PO Tomei’s coat and pulled it, causing PO Tomei to choke. § 87(2)(b) yelled that he could not breathe but continued to resist and refused to give the officers his hands. PO Tomei did not see anything that may have restricted § 87(2)(b)’s breathing.

On the ground, § 87(2)(b) continued to resist by pushing, pulling, and refusing to give his hands to the officers. PO Tomei and the other officers attempted to gain control of § 87(2)(b) by grabbing his arms and turning him over. PO Tomei did not punch or kick § 87(2)(b) and he did not see any officer do so. PO Tomei heard an officer tell § 87(2)(b) that he would be tasered if he did not stop moving, although he did not know who said this.

During this struggle, § 87(2)(b)’s mother, § 87(2)(b) came running out the front door with a combative demeanor and got between the officers and § 87(2)(b) while saying that they would not take her son. Sgt. Federico and another officer grabbed § 87(2)(b) and she resisted, causing them to go down to the ground. As this was happening, PO Tomei and another officer struggled with § 87(2)(b). He did not see § 87(2)(b) being brought to the ground. He did not see any officer punch or kick § 87(2)(b). Once they were detained, § 87(2)(b) and § 87(2)(b) were placed under arrest and into a patrol vehicle.

Sgt. Federico and PO Tomei, in addition to other officers whom he did not recall, then were instructed by Lt. Hayward to enter the house to check for anyone dead and any guns. PO Tomei did not recall if Lt. Hayward entered as well. Inside, PO Tomei walked around the second story of the house and entered several of the rooms he passed. He and the other officers reached a series of doors, each of which was closed by residents of the house as they approached. They opened one door to find a female hiding behind it. When asked why she was hiding behind the door, two other girls began talking and one yelled that the officers would “never find it.” The officers continued to go door-to-door and met with more resistance from the residents. No search of the house for a gun was conducted. PO Tomei left the house after about 5-10 minutes.

The officers returned to the stationhouse, where PO Tomei learned that an ambulance had been called to the § 87(2)(b) house. The ambulance had been called there for § 87(2)(b) although he was at the stationhouse at the time. EMS then requested that officers respond to the scene, as the residents of the house were throwing objects at the EMS workers.

Subject Officer: SGT. JOSEPH FEDERICO

- *A white male who is 5’4” tall, weighing 180 pounds with black hair and brown eyes, Sgt. Federico was § 87(2)(b) old at the time of the incident.*
- *Sgt. Federico worked from 1:15 p.m. to 10:12 p.m. assigned as the field training supervisor with PO Tomei. He was in uniform and was assigned to a marked RMP.*

Memo Book

- 7:45 p.m., Possible crime – firearm at § 87(2)(b) 7:48 p.m., Arrived at scene; 8:00 p.m., Verified two under arrest by PO Harun, no violations observed; 8:10 p.m., Arrived at the 75th Precinct stationhouse. (encl. c14-16)

CCRB Statement

Sgt. Joseph Federico was interviewed at the CCRB on May 9, 2012 (encl. c17-19). Sgt. Federico saw Lt. Hayward began to enter the basement door when § 87(2)(b) quickly exited the front door of the house and jump down several steps to the front yard. (Sgt. Federico stated that at the time, Lt. Hayward “could have been partially inside” the door.) § 87(2)(b) charged at Lt. Hayward, who pointed his gun at § 87(2)(b) instructed him to stop and asked him if he had a gun. § 87(2)(b) did not comply and he continued to move toward Lt. Hayward. PO Adelman and Lt. Hayward then grabbed § 87(2)(b) and brought him to the ground. Sgt. Federico attempted to assist them by placing his hands on § 87(2)(b) but he was unsuccessful in doing so. § 87(2)(b) refused to be handcuffed or to be brought to the ground, and he resisted when he was on the ground by kicking his feet. Sgt. Federico did not kick § 87(2)(b) in the chest or at all and he did not witness any other officer do so. He did not punch § 87(2)(b) at all or see any officer do so.

When § 87(2)(b) charged toward the scene, she pushed one officer in the chest as she exited the house and continued to charge toward where § 87(2)(b) was. Officers told her to stop, but she did not comply. She flailed her arms and ran past Sgt. Federico as she pushed him in the chest. Sgt. Federico and PO Tomei placed § 87(2)(b) under arrest as she continued to flail her arms with closed fists and resisted. Sgt. Federico and PO Tomei brought § 87(2)(b) to the ground using minimal force and handcuffed her. Sgt. Federico did not kick § 87(2)(b) or see any officer do so.

Lt. Hayward instructed Sgt. Federico and PO Tomei to go into the house to ensure that no one was shot and to make sure that there was no gun in plain view. Sgt. Federico did not hear any gunfire. He believed someone may have been injured based on the gun reported in the radio run. Sgt. Federico and PO Tomei entered the front door of the house, which was already opened. Sgt. Federico was the first officer to enter, and there were others with him besides PO Tomei, although he did not recall who. He did not know if Lt. Hayward entered. Sgt. Federico went up steps and saw a single-floor layout with multiple rooms. He went into a bathroom, a bedroom and a dining room area. He did not search any of these rooms and did not see a weapon anywhere. There were about five people inside the house. They were verbally combative toward Sgt. Federico and used profanities toward him. One female attempted to run away from the officers and hid herself between a door and a wall. When Sgt. Federico spoke to her and asked her why she had hidden, she stated that she was § 87(2)(b)'s girlfriend but she would not provide her name or any additional information. While Sgt. Federico looked around the house, she stated, "You're never going to find it." Sgt. Federico asked her what she meant, at which point another female told her to "shut the fuck up" and the two females began to argue. Sgt. Federico left after being inside of the house for about 5 minutes.

Witness Officer: PO FAISAL HARUN

- *An Asian male who is 5'7" tall, weighing 185 pounds with black hair and black eyes, PO Harun was § 87(2)(b) old at the time of the incident.*
- *PO Harun worked from 1:30 p.m. to 10:05 p.m. assigned to Impact with PO Just. He was in uniform and was in a van, although he did not recall if it was marked or unmarked.*

Memo Book

- 7:48 p.m., Back up 75th Precinct lieutenant for possible crime – man with a gun at § 87(2)(b)
8:05 p.m., At TPO, defendant was identified as a perpetrator from radio run to be in possession of firearm. Perpetrator #1 refused to comply with lawful order to be frisked with firearm, at which perpetrator #2 obstructed police from frisking perpetrator #1. Arrested both perpetrators. (encl. c1-4)

CCRB Statement

PO Harun was interviewed at the CCRB on April 24, 2012 (encl. c5-7). When PO Harun arrived at the scene, there were approximately 4-5 present in front of the open side door, including Lt. Hayward. Another officer, whom PO Harun could not identify, told him that an armed man had run inside the house. PO Harun did not enter the house and did not recall if any other officer entered the house. After several 2-3 minutes, § 87(2)(b) exited the side door while flailing his arms. He was frisked by officers, including PO Harun, Lt. Hayward, and two others whom PO Harun could not identify, but § 87(2)(b) resisted. § 87(2)(b) was not kicked in the chest. § 87(2)(b) came outside and attempted to stop the search of § 87(2)(b) by yelling and flailing her arms. She pushed an officer. PO Harun did not recall which officers participated in the arrest of § 87(2)(b) who was furious and resisted by moving her arms. PO Harun saw § 87(2)(b) being brought down to the ground. PO Harun did not punch or kick § 87(2)(b) or § 87(2)(b) nor did he see any other officers do so.

PO Harun did not notice any injuries or bruises to either § 87(2)(b) or § 87(2)(b). Neither complained of being unable to breathe. No ambulance was called to the scene or to the stationhouse.

The rest of the family was inside the house and were standing in the basement doorway during the incident. No officer went inside the basement to look for § 87(2)(b)

Witness Officer: PO SCOTT JUST

- *A white male who is 6'1" tall, weighing 230 pounds with gray hair and brown eyes, PO Just was § 87(2)(b) old at the time of the incident.*
- *PO Just worked from 1:30 p.m. to 10:05 p.m. assigned as a field training officer with PO Harun and PO Evert. He was in uniform and was assigned to a marked van.*

Memo Book

- 7:48 p.m., Back up 75th Precinct lieutenant – possible crime with a gun at § 87(2)(b)
8:05 p.m., Two under arrest for PO Harun, Transported one female to 75th Precinct. (encl. c25-27)

CCRB Statement

PO Scott Just was interviewed at the CCRB on May 17, 2012 (encl. c28-29). When § 87(2)(b) exited the house, Lt. Hayward attempted to stop and handcuff him, and they wrestled to the ground. PO Just did not assist in the detainment of § 87(2)(b). § 87(2)(b) resisted by pushing officers and flailing his arms, and he continued to resist on the ground, where it took officers several seconds to handcuff him. PO Just did not kick or punch § 87(2)(b) and he did not see any officer do so. During § 87(2)(b)'s arrest, PO Just was turned away from the house as he made sure that no one else entered the walled-in area. PO Just did not see any officer punch or kick § 87(2)(b). PO Just did not hear § 87(2)(b) or § 87(2)(b) complain of injuries and he did not notice any injuries to either of them. He did not hear § 87(2)(b) complain of having difficulty breathing.

After the arrests, Lt. Hayward and about two additional officers whom PO Just could not recall entered the house. PO Just walked up to the front door of the house following Lt. Hayward, but did not enter the front door of the house. PO Just was not informed why they entered the house and he was not told by Lt. Hayward about anything that may have been occurring inside the house. Lt. Hayward and the other officers exited the house after about a minute.

An ambulance arrived at the scene as PO Just left. He transported § 87(2)(b) to the stationhouse. She was compliant and PO Just noticed no injuries to her.

Medical Records

- § 87(2)(b) stated that § 87(2)(b) and § 87(2)(b) both went to § 87(2)(b) on § 87(2)(b). However, because § 87(2)(b) and § 87(2)(b) did not cooperate with the investigation, their medical records could not be obtained.

NYPD Document(s)

SPRINT Report

- At 7:45 p.m., a SPRINT report was generated regarding a male with a gun, described as wearing a "black hoody, dark hat, black jeans and boots," who "ran into basement" of § 87(2)(b). The caller was listed as "§ 87(2)(b)". According to the SPRINT, 75LT2 arrived at the scene at 7:48 p.m. (encl. d1-5).

911 Communications CD

- A call was placed to 911 by an individual who stated that five minutes earlier, he saw a black male named “§ 87(2)(b),” who wore a black hoodie, black jeans and a hat, run into the basement of § 87(2)(b) with a gun. The caller did not provide his location. He provided his name as “Velez” and declined to provide a call-back number.
- Calls were placed to 911 by § 87(2)(b) and another female. § 87(2)(b) told the 911 operator that officers came while saying that people had a gun, kicked her mother in the stomach and head, and fought her brother. She requested an ambulance because her brother was having difficulty breathing and “they keep hitting him.” One of the callers stated that the individual who was having difficulty breathing “already has chest problems,” although she did not elaborate.

IAB Audio

- An IAB recording of a call between an officer from IAB and Lt. Hayward was obtained. Lt. Hayward reported, “We got a call of a man with a firearm... The perp was in front of the house when we got there. We were knocking on the door, he came down from upstairs. Immediately, him and his mother started fighting with the police. They were both arrested... Nobody was injured.” Lt. Hayward stated of § 87(2)(b) “He’s a known gang member over here. He was the victim of a shooting last year.”

Arrest Reports

- § 87(2)(a) 160.50
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Arrest Photographs

- The arrest photographs of § 87(2)(b) and § 87(2)(b) show no signs of injury. (encl. d12-13)

Command Log

- The command log entries for the arrests of § 87(2)(b) and § 87(2)(b) note that their physical conditions appeared normal. (encl. d15)

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming false arrest, false imprisonment, assault and battery, and seeking 2 million dollars as redress (encl. e1).
- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming physical and emotional injuries, and seeking 2.5 million dollars as redress (encl. e2-6).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[redacted]
[redacted]
- [redacted]
[redacted]
■ [redacted]
[redacted]

Civilian(s) CCRB History

- This is the first CCRB complaint in which [§ 87(2)(b)] and [§ 87(2)(b)] have been involved (encl. a5-6).

Subject Officer(s) CCRB History

- Lt. Hayward has been a member of the service for 12 years and there are no substantiated CCRB allegations against him (encl. a1).
- PO Adelman has been a member of the service for 1 year and there are no substantiated CCRB allegations against him (encl. a2).
- PO Tomei has been a member of the service for 1 year and there are no substantiated CCRB allegations against him (encl. a3).
- Sgt. Federico has been a member of the service for 9 years and there are no substantiated CCRB allegations against him (encl. a4).

Conclusion

Identification of Subject Officer(s)

- Lt. Hayward, Sgt. Federico, PO Adelman and PO Tomei admitted to interacting with [§ 87(2)(b)] [redacted] and [§ 87(2)(b)] [redacted]. While Sgt. Federico admitted to assisting physically in the arrest of [§ 87(2)(b)] [redacted], PO Tomei and PO Adelman admitted to assisting physically in the arrest of [§ 87(2)(b)] [redacted].
- [§ 87(2)(g)] [redacted]
[redacted]

Allegations Not Pled

- [§ 87(2)(g)] [redacted]
[redacted]
- [§ 87(2)(g)] [redacted]
[redacted]
[redacted]
[redacted]

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Lt. Joseph Hayward supervised the entry of [§ 87(2)(b)] [redacted] in Brooklyn.

It is undisputed that officers entered of [§ 87(2)(b)] [redacted] first upon their arrival at the house and then again following [§ 87(2)(b)] [redacted]'s arrest. [§ 87(2)(b)] [redacted] stated that she saw about ten to fifteen officers in the basement after their arrival, and that one officer said they saw someone run in with a gun. [§ 87(2)(b)] [redacted] told an officer to look around and that no one was in there. Two officers looked in the bedroom's closet to see if anyone was hiding. The officers then went back outside

when § 87(2)(b) was in front of the house. Later, after the arrests of § 87(2)(b) and § 87(2)(b) § 87(2)(b) went upstairs and saw about nine officers going around the house, kicking in doors in and entering rooms. Lt. Hayward stated that upon his arrival at the scene with PO Adelman, he stepped into an open basement door while asking if anyone was there before § 87(2)(b) was identified outside the front of the house. According to PO Adelman, he followed Lt. Hayward into the basement door. They saw no one inside the house matching the description they had received, so they turned and proceeded back up the stairs toward the front of the house. Lt. Hayward admitted that after the arrests, he entered the house with additional officers to make sure no one was injured or shot and to see if a gun was in close proximity. PO Tomei stated that upon Lt. Hayward's instruction, he, Sgt. Federico and other officers entered the house to check for anyone dead and for any guns. They went door-to-door and met with resistance from the residents, one of whom hid behind a door. PO Tomei, Sgt. Federico and PO Adelman testified that they were in the house for approximately 5 minutes before leaving. They admitted to knocking on doors, entering rooms and interacting with civilians inside the residence. The issue here is whether Lt. Hayward's warrantless entries upon arriving at the scene and following the arrests were justified.

A warrantless entry into a home to make an arrest is justified if probable cause and exigent circumstances are present. Circumstances considered exigent include a clear showing of probable cause; the likelihood of escape; peaceful circumstances of the entry; the gravity of the suspected offense; whether the suspect is reasonably believed to be armed; and strong reason to believe that the suspect is in the premises. People v. McBride, 14 N.Y.3d 440 (encl. i-vii). According to People v. Dallas, 8 N.Y.3d 890 (2007), officers may enter and search a location under the "emergency doctrine" if they have reasonable suspicion to believe there is an immediate need for their assistance to protect life property, if the search is not motivated primarily by intent to arrest and seize evidence, and if there is a reasonable basis to associate the emergency with the area to be searched (encl. viii-ix). In People v. Dixon, 289 A.D.2d 937 (2001), a stop and frisk was permitted based on the credibility of a caller to 911. The caller provided a first name and location, described in detail an individual referred to as "C," who pulled a gun on him and carried rugs, and agreed to wait for an officer on a particular street corner (encl. x-xi).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation B – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that as § 87(2)(b) was being detained, an officer, whom she could not describe, told § 87(2)(b) that they would taser him if he did not stop moving. She stated that § 87(2)(b) was not moving around at the time. In his telephone statement, § 87(2)(b) recalled that an officer told him, "Don't move or I'll tase you." He did not provide a description of this officer.

Of all the officers interviewed, only PO Tomei recalled hearing an officer tell § 87(2)(b) that he would be tasered if he did not comply. However, PO Tomei only heard the statement and did not see or know who said it. § 87(2)(g)

[REDACTED]

Allegation C – Force: PO Scott Adelman used physical force against § 87(2)(b)

Allegation D – Force: PO Michael Tomei used physical force against § 87(2)(b)

Allegation E – Force: Sgt. Joseph Federico used physical force against § 87(2)(b)

§ 87(2)(b) stated that when § 87(2)(b) kept speaking to the officers in front of the house, they approached him and grabbed for his arms and legs. § 87(2)(b) did not swing at the officers, throw any punches or try to get away from them. He did not use any profanities toward the officers. The impact of the officers as they grabbed § 87(2)(b) caused him to fall and the back of his head to hit against the mailbox. Seven or eight officers held him down. § 87(2)(b) did not struggle or resist, and when his arms and legs were secure, officers kicked him in his chest. § 87(2)(b) did not try to prevent the officers from handcuffing him. As § 87(2)(b) took out her cell phone and pointed it at the officers, they brought her to the ground and

an officer kicked her about six times in her abdominal area. § 87(2)(b) did not move around while on the ground. All of the officers interviewed stated that § 87(2)(b) exited his house and approached the officers in a combative way, and that he resisted any attempts to question, frisk or handcuff him. He was described as using profanities towards the officers as he approached them, kicking his feet while on the ground, and refusing to give his arms to the officers. Similarly, the officers stated that § 87(2)(b) came out of the house and approached § 87(2)(b) while pushing officers, using profanities and flailing her arms when officers attempted to handcuff her. The officers interviewed all denied kicking § 87(2)(b) or § 87(2)(b) and none saw any other officer do so.

§ 87(2)(b) stated that when § 87(2)(b) returned home the next day, she noticed a large bruise to § 87(2)(b)'s chin, bruises to her arms, and bruises to her legs. § 87(2)(b) returned home the following day, and § 87(2)(b) did not notice any injuries to him. She stated that both § 87(2)(b) and § 87(2)(b) received medical treatment two days later at Brookdale Hospital. However, no medical records could be obtained, as neither victim cooperated with the investigation.

§ 87(2)(g)

Team: _____

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date